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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,091	08/17/2006	Richard Alan O'Hara	PHUS040128US2	9983
38107 7590 07/29/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS 595 MINER ROAD CLEVELAND, OH 44143				
EXAMINER GEDEON, BRIAN T				
ART UNIT		PAPER NUMBER		
3766				
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07/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,091

Applicant(s)

O'HARA, RICHARD ALAN

Examiner

Brian T. Gedeon

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 30 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CI/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment after non-final filed 30 April 2008.

Drawings

2. The new drawing submitted concurrent with the amendment has been accepted.

Specification

3. The replacement abstract has been acknowledged and accepted. The objection made to the abstract in the previous Office action has been withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-14, 16, and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rockwell et al. (US Patent no. 6,405,083).

In regard to claims 9, 12-14, 16, and 17, Rockwell et al. disclose a defibrillator with wireless communication and voice prompts. The defibrillator 10 is configured as an automatic external defibrillator or as a semi-automatic external defibrillator, col 6 lines 56-58 and col 7 lines 42-43. The defibrillator includes a pair of electrodes 16, a shock button 24, a battery, col 7 lines 29-31, a controller 206, a speaker 232, and telemetry transceivers 302 and 304. The speaker 232 operates to provide audible voice prompts to a user, col 12 lines 41-42. Examples of voice prompts include prompting the user to apply the electrodes to the patient, or to deliver resuscitation therapy, col 7 lines 24-43. Telemetry transceivers 302 and 304 serve for wireless information transfer communicate through standardized wireless communication protocols, col 5 lines 10-21. Rockwell et al. is also configured with a training system 278 via wireless communication to assist in training users to operate the defibrillator 10 in various scenarios, col 13 line 47 - col 14 line 10. The training system is intended to provide realistic training scenarios to assist the user, col 13 lines 61-65. The Examiner considers that a realistic training scenario would include the example voice prompts as described in col 7 lines 24-43. Secondly, since Rockwell et al. describe that the training system is done via wireless communication, the Examiner considers that the voice prompts to aid in training a user would necessarily be delivered via the wireless communication.

Therefore it would not beyond one of ordinary skill in the art to anticipate, or to find obvious, to use the wireless communication mode of the training in a real life situation.

In regard to claims 10 and 11, Rockwell et al. wirelessly transfer information to a portable device such as palm top computer, col 9 lines 31-35. A palm top computer is considered to be a PDA.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. (US Patent no. 6,405,083) in view of Moore et al. (US Patent no. 7,231,258).

In regard to claim 15, Rockwell et al. substantially describe the invention as claimed, and describe the defibrillator 10 may wireless communication through any of the standardized wireless communication protocols, col 5 lines 10-21. However, Rockwell et al. do not specifically describe the types of protocols used. Moore et al., in a similar field of endeavor, describe wireless communication of medical data, in which a defibrillator 12A has wireless communication capabilities, and may establish a communication session using a Bluetooth or IEEE 802.11 protocol, col 6 lines 6-19. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that a standardized wireless communication protocol would include Bluetooth or IEEE 802.11 since Moore et al. teach that these protocols are wireless communication standards.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. (US Patent no. 6,405,083) in view of Matos (US Patent no. 7,277,752).

In regard to claim 18, Rockwell substantially describes the invention as claimed except for portable device comprising headphones. Matos describes a system and a method for monitoring and controlling the therapy of a cardiac rhythm abnormality in a patient. The system and method include the use of a portable external defibrillator that delivers audio prompt to a user, and may use speakers or headphones, col 33 lines 16-55. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the AED of Rockwell et al. include headphones since Matos discloses that headphones may be used with a portable AED to deliver audio prompts to a user.

9. Claims 1-5, 7, 8, and 19 are rejected under 35 U.S.C. 103(a) as unpatentable over Rockwell et al. (US Patent no. 6,405,083) in view of Hamilton et al. (US Publication no. 2003/0055458).

In regard to claims 1-5 and 19, Rockwell et al. disclose a defibrillator with wireless communication and voice prompts. The defibrillator 10 is configured as an automatic external defibrillator or as a semi-automatic external defibrillator, col 6 lines 56-58 and col 7 lines 42-43. The defibrillator includes a pair of electrodes 16, a shock button 24, a battery, col 7 lines 29-31, a controller 206, a speaker 232, and telemetry transceivers 302 and 304. The speaker 232 operates to provide audible voice prompts to a user, col 12 lines 41-42. Examples of voice prompts include prompting the user to apply the electrodes to the patient, or to deliver resuscitation therapy, col 7 lines 24-43. Telemetry transceivers 302 and 304 serve for wireless information transfer communicate through standardized wireless communication protocols, col 5 lines 10-21.

Rockwell et al. is also configured with a training system 278 via wireless communication to assist in training users to operate the defibrillator 10 in various scenarios, col 13 line 47 - col 14 line 10. The training system is intended to provide realistic training scenarios to assist a user, col 13 lines 61-65. The Examiner considers that a realistic training scenario would include the example voice prompts as described in col 7 lines 24-43. Secondly, since Rockwell et al. describe that the training system is done via wireless communication, the Examiner considers that the voice prompts to aid in training a user would necessarily be delivered via the wireless communication.

However, Rockwell et al. do not describe instructing the user to determine if the electrodes have been attached properly. Hamilton et al., in a similar field of endeavor, describe an automatic external defibrillator 10 with a graphical interface to assist a user in administering resuscitation therapy to a patient, and also may assist the user with audio prompts, para 12. Provisions are included for detecting if the electrodes have been properly placed on the patient by testing the impedance, para 41. If the electrode contact is lost, an LED is illuminated and an audio prompt is delivered prompting the user to check the electrodes, para 58. Therefore it would have been obvious to one of ordinary skill in the art to modify the AED of Rockwell et al. to include means for impedance detection since Hamilton et al. teach that the electrode contact impedance should be in a specific range to indicate a good electrical contact between the electrodes and the patient.

In regard to claims 7 and 8, Rockwell et al. wirelessly transfer information to a portable device such as palm top computer, col 9 lines 31-35. A palm top computer is considered to be a PDA.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. (US Patent no. 6,405,083) in view of Moore et al. (US Patent no. 7,231,258).

In regard to claim 15, Rockwell et al. substantially describe the invention as claimed, and describe the defibrillator 10 may wireless communication through any of the standardized wireless communication protocols, col 5 lines 10-21. However, Rockwell et al. do not specifically describe the types of protocols used. Moore et al., in a similar field of endeavor, describe wireless communication of medical data, in which a defibrillator 12A has wireless communication capabilities, and may establish a communication session using a Bluetooth or IEEE 802.11 protocol, col 6 lines 6-19. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that a standardized wireless communication protocol would include Bluetooth or IEEE 802.11 since Moore et al. teach that these protocols are wireless communication standards.

Response to Arguments

11. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's arguments with respect to claims 9-15 have been fully considered but they are not persuasive. Rockwell et al. disclose all of the elements as claimed. The

defibrillator of Rockwell et al. includes a pair of electrodes 16, a shock button 24, a battery, col 7 lines 29-31, a controller 206, a speaker 232, and telemetry transceivers 302 and 304. The speaker 232 operates to provide audible voice prompts to a user, col 12 lines 41-42. Examples of voice prompts include prompting the user to apply the electrodes to the patient, or to deliver resuscitation therapy, col 7 lines 24-43. Telemetry transceivers 302 and 304 serve for wireless information transfer communicate through standardized wireless communication protocols, col 5 lines 10-21. Rockwell et al. is also configured with a training system 278 via wireless communication to assist in training users to operate the defibrillator 10 in various scenarios, col 13 line 47 - col 14 line 10. The training system is intended to provide realistic training scenarios to assist the user, col 13 lines 61-65. The Examiner considers that a realistic training scenario would include the example voice prompts as described in col 7 lines 24-43. Secondly, since Rockwell et al. describe that the training system is done via wireless communication, the Examiner considers that the voice prompts to aid in training a user would necessarily be delivered via the wireless communication..

Further, claim 9 includes recitations of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Gedeon whose telephone number is (571) 272-3447. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
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